

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Crl.MC.No. 2730 of 2007()

ST.351/2006 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER:

MR.BIJU, AGED 34 YEARS,
PROPRIETOR, M/S.EVERGREEN ASSOCIATES
HARITHAM, PATHIYOORKALA,
KEERIKAD.P.O,
KAYAMKULAM.

BY ADV. SRI.C.K.THANU PILLAI

RESPONDENTS:

1. M/S.HINDUSTAN LUBRICANTS CO.PVT.LTD
REGISTERED OFFICE II FLOOR,
CORPORATION BUS STAND BUILDING,
KALOOR, ERNAKULAM 682 017.
AUTHORIZED REPRESENTATIVE, MR.SIYAM BASHEER.
2. STATE OF OF KERALA REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24/08/2007 , THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.2730 of 2007

Dated this the 24th day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken. The petitioner had appeared before the learned Magistrate. He was enlarged on bail on 09.08.07. When the case was posted to a date later, the petitioner did not appear before the learned Magistrate. There was no representation for him. The learned Magistrate thereupon issued non bailable warrant to procure the presence of the petitioner. According to the petitioner, the petitioner is absolutely innocent. His absence was not wilful. He had mistakenly taken the date as 08.09.07 and that is why he was not present on 09.08.07. There has been a couple of postings in quick succession after 09.08.07. On coming to note that a warrant of arrest has been issued by the learned Magistrate against the petitioner, the petitioner wants to appear before the learned Magistrate and apply for bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. There shall be a further direction that the warrant of arrest issued against the petitioner shall not be executed till 08.09.07. On or before that date, the petitioner shall surrender before the learned Magistrate and seek regular bail.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-

